

Application No. 10/781,277
Amendment dated August 23, 2007
Reply to Office Action dated May 24, 2007

Amendments to the Drawings:

Please substitute the attached three sheets of drawings for the two sheets of drawings originally filed with the application.

Attachments: Three sheet of replacement drawings.

REMARKS

In the Office Action dated May 24, 2007, the Examiner requested confirmation of the election, objected to the drawings and rejected the elected claims under Section 112 and 103.

Applicant confirms the telephonic election of Species of Figure 1. This election is made with traverse. The Examiner has made no showing that the embodiments shown in Figures 1, 3 and 4 are patentably distinct such as identifying separate classes in which each embodiment would be found for searching. Accordingly, withdrawal of the restriction requirement and examination of all pending claims is respectfully requested.

The Examiner objected to the drawings saying "The drawings must show every feature of the invention specified in the claims. Therefore, at least some of the anchoring studs must be shown or the feature(s) cancelled from the claim(s)." Applicant understands this comment to require the submission of a drawing showing a plurality of studs rather than just a single stud extending from a wall. In response that requirement Applicant has amended the application to include an additional figure, Figure 5. Figure 5 is similar to Figure 2. Figure 2 shows only one studs. Figure 5 shows multiple studs of the same type. Therefore, no new matter has been added by this additional figure.

Claims 1, 2, 7-10, 14 and 19-21 were rejected under Section 112 as being indefinite. The Examiner pointed to the language "the type" in line 1 of claim 1 as well as additional phrases from that claim. Claim 1 is written in Jepson format. This is a recognized format for claims. See 37 C.F.R. § 1.75(e) and MPEP § 608.01(m). Consequently, the Examiner's rejection under Section 112 is improper and should not have been entered. Nevertheless, Applicant has amended claims 1 and 13 to put them in standard format. Dependent claims 7 through 10, 14 and 19-21

were amended to reflect this change in format. This Amendment overcomes the objection under Section 112.

The Examiner has rejected all of the elected claims as unpatentable under Section 103 based upon United States Patent No. 1,884,491 to Ziemann. That patent discloses a plasterer's hawk in which a nut having longitudinal grooves is used to secure the handle to the plate. The Examiner says there is a refractory material 12 in at least some of the grooves of the nut. However, item 12 is identified as a socket for the nut. The handle is obviously wooden because it is secured to the nut by a wood screw. Wood is not a refractory material. A refractory material is a material highly resistant to the action of great heat, such as fire clay. See Funk & Wagnalls The Standard College Dictionary. Since the wooden handle surrounds the nut 13, there can never be any refractory material in the grooves 14 of the nut.

The Examiner states that "it would have been obvious to one having an ordinary skill in the art to have more than one anchor studs (sic) securing more plates 11 to handle 10." Applicant respectfully disagrees. A plasterer's hawk is a small square board with a handle underneath to hold plaster or mortar. The plasterer's hawk has a single handle extending from a plate such that when the handle is upright on plaster can be carried on the plate. The handle is centered to provide proper balance. Given the purpose and use of this device a person of ordinary skill in the art would not use more than one anchor to secure a handle to the plate and would not attach more than one plate to the handle. Moreover, those skilled in the art would not consider adding an additional handle or handles to the plate since only one handle is needed to hold the plasterer's hawk. When the hawk is held in one hand, the other hand of the user must remain free to remove plaster or mortar from the plate. Claim 1 and 13 require a plurality of studs extending from a

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wall. There is no teaching or suggestion in Ziemann to provide more than one handle or more than one stud in his plasterer's hawk. Accordingly, the claims as amended are patentable over Ziemann.

For the foregoing reasons the claims as amended are patentable. Reconsideration, withdrawal of the restriction requirement and allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lynn J. Alstadt", written in a cursive style.

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